HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION No.5528 OF 2007

Between:

M/s. Balaji Agencies,
Opp: APSRTC Bus Stand,
Mancherial, Adilabad
District, rep., by its
Managing Partner
Mr. Allanki Srinivas

…Petitioner

AND

Appellate Deputy Commissioner (CT),
Warangal Division, WARANGAL
and another

...Respondents

: O R D E R :

Counsel for the petitioner : Shri Shaik Jeelani Basha

Counsel for the respondents : Government Pleader for Commercial Taxes

29th March, 2007

Per G.S.SINGHVI, CJ

This petition is directed against order dated 19-9-2006 passed by Appellate Deputy Commissioner (Commercial Taxes), Warangal (respondent No.1), whereby he dismissed the appeal preferred by the petitioner against the order of assessment as barred by limitation.

We have heard learned counsel for the petitioner and the learned Government Pleader for Commercial Taxes and perused the record.

Along with the appeal preferred by it against the order of assessment, the petitioner filed application for condonation of delay. The same was accompanied by medical certificate. But without considering the same, respondent No.1 dismissed the appeal as barred by time.

At the hearing, learned Government Pleader for Commercial Taxes very fairly stated that the cause shown by the petitioner for its inability to file appeal within the statutory period of limitation was sufficient and respondent No.1 should have condoned the delay.

We appreciate the fair stand taken by the learned Government Pleader.

De hors the statement of the learned Government Pleader, we are convinced that the petitioner had shown sufficient cause for condonation of delay in filing the appeal and respondent No.1 committed a jurisdictional error by refusing to condone the delay.

For the reason aforestated, the writ petition is allowed. Order dated 19-9-2006 is quashed. Respondent No.1 is directed to admit

the appeal and decide the same on merits. The petitioner is directed to appear before respondent No.1 on
23-4-2007 and produce the certified copy of this order. Thereafter, respondent No.1 shall hear the parties and pass appropriate order in accordance with law.

As a sequel to disposal of the writ petition, WPMP No. 7037 of 2007 filed by the petitioner for interim relief is disposed of as infructuous.

G.S. SINGHVI, C.J.

C.V. NAGARJUNA REDDY, J.

March 29, 2007
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